

1 **NEGER HEKMAT ALAMI**
2 **SHAHROKH ALAMI**
3 **536 MATTERHORN DR**
4 **WALNUT CREEK, CALIFORNIA 94598**

5 **UNITED STATES DISTRICT COURT**

6 **NORTHERN DISTRICT OF CALIFORNIA**

FILED
FEB 11 PM 3:37
CHAD W. ELLIOTT
U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
E-filing

7
8
9 **NEGER HEKMAT ALAMI**
10 **SHAHROKH ALAMI**

11 **PLAINTIFFS**

12 **Vs.**

13 **SUPERIOR COURT OF CALIFORNIA,**
14 **COUNTY OF CONTRA, SAXON**
15 **MORTGAGE, QUALITY LOAN**
16 **SERVICE CORP,**
17 **DEFENDANTS**

18 **DOES 1-20 .**

CV 08

0893

NOTICE OF PETITION AND
VERIFIED PETITION FOR
WARRANT OF REMOVAL BY

THREE-JUDGE PANEL: 28 U.S.C. ☐

1441(a), COMPLAINT FOR
DAMAGES

WRONGFUL FORECLOSURE,
CONVERSION, QUIET TITLE TO

REAL PROPERTY;

INJUNCTIVE RELIEF

22 U.S.C. § 282f

VRW

21
22
23
24 **Plaintiff complains and for causes of action alleges as follows:**

25 **GENERAL ALLEGATIONS**

26 **FIRST CAUSE OF ACTION**

27 **PLAINTIFF'S COMPLAINT TO RECOVER POSSESSION OF REAL**
28 **PROPERTY**

I

1 At all times herein relevant, Plaintiff was a resident of the State of
2 California.

3
4 **II**

5
6 **Defendant SAXON MORTGAGE is, and at all times herein mentioned**
7 **was a Foreign Corporation based either in the State of Virginia or in the**
8 **State of Texas, and as such, not a California based corporation. Defendant**
9 **Quality Loan Services is not a California Corporation, Plaintiff will amend**
10 **the complaint once the corporate identity of Quality Loan Services is**
11 **ascertained.**
12

13
14 **III**

15 The Federal District Court has jurisdiction because, For the purpose
16 of any action which may be brought within the United States, its
17 Territories or possessions, or the Commonwealth of Puerto Rico by or
18 against the Bank in accordance with the agreement, the Bank shall be
19 deemed to be an inhabitant of the Federal judicial district in which its
20 principal office in the United States is located, and any such action at
21 law or in equity to which the Bank shall be a party shall be deemed to
22 arise under the laws of the United States, and the district courts of the
23 United States shall have original jurisdiction of any such action. When
24 the Bank is a defendant in any such action, it may, at any time before
25
26
27
28

1 the trial thereof, remove such action from a State court into the district
2 court of the United States for the proper district by following the
3 procedure for removal of causes otherwise provided by law.
4

5
6 IV
7

8 Plaintiff is ignorant of the true names and capacities of defendants
9 sued herein as DOES I through X, inclusive, and therefore sue these
10 defendants by such fictitious names. Plaintiff will amend this complaint to
11 allege their true names and capacities when ascertained.
12
13

14 V
15

16 Plaintiff is informed and believes and thereon alleges that, at all
17 times herein mentioned, each of the defendants sued herein was the agent
18 and employee of each of the remaining defendants and was at all times
19 acting within the purpose and scope of such agency and employment.
20

21 VI
22

23 Plaintiff is and at all times herein mentioned the owner and/or
24 entitled to possession of the property located at 536 MATTERHORN DR,
25 WALNUT CREEK, CALIFORNIA 94598.
26
27
28

VII

Plaintiff is informed and believe and thereupon allege that each of them, claim an interest in the property adverse to plaintiff herein.

However, the claim of said Defendants is without any right whatsoever, and said Defendant has no legal or equitable right, claim, or interest in said property.

VIII

Plaintiff therefore seek a declaration that the title to the subject property is vested in plaintiff alone and that the defendant herein, and each of them, be declared to have no estate, right, title or interest in the subject property and that said defendants and each of them, be forever enjoined from asserting any estate, right, title or interest in the subject property adverse to plaintiff herein.

SECOND CAUSE OF ACTION

CONVERSION

AS TO SAXON MORTGAGE AND QUALITY LOAN SERVICES ONLY

IX

As a second and apart cause of action, Plaintiff realleges the above cause of action and incorporates same as if fully set-out herein.

X

On 7 November 07, Defendants SAXON AND QUALTTY served a Notice of Trustee's sale on Plaintiff. This is subsequent to Saxon having

1 begun foreclosure proceedings against Plaintiff. At all times herein relevant,
2
3 Petitioner requested that Saxon provide a full accounting on all payments
4 made regarding his home loan with Saxon.

5
6 Saxon willfully and deliberately failed to provide an accurate
7 accounting re the loan, however, Saxon proceeding with the Foreclosure.
8

9 XI

10
11 At all times herein relevant, neither Saxon nor Quality where the
12 owner of the mortgage on Plaintiff's residence and as such, did not have the
13 capacity to foreclose on the Plaintiff's residence, on or about 3 December
14 07, both Saxon and Quality did enter into an agreement to convert Plaintiff
15 property to themselves, and sold same to a third party.
16
17

18 THIRD CAUSE OF ACTION AGAINST SAXON MORTGAGE AND
19 QUALITY LOAN SERVICES
20
21 WRONGFUL FORECLOSURE

22 XII

23
24 As a third and apart cause of action, Plaintiff realleges the above
25 causes of action and incorporates same as if fully set-out herein.
26
27
28

XIII

On 7 November 07, Defendants SAXON AND QUALTITY served a Notice of Trustee's sale on Plaintiff. At the time of the services of the notice of Trustee's sale of the Plaintiff's residence, neither party had the capacity to initiate that action because, Saxon as a mortgage servicing company or Quality owned the mortgage on Plaintiff's residences and as such, did not have the capacity or legal right to initiate foreclosure proceedings against This is subsequent to Saxon having begun foreclosure proceedings against Plaintiff's residence.

XIV

On or about 3 December 07, both Saxon and Quality did wrongfully foreclosed on the Plaintiff's residence, sold same to a third party, and that third party has now commenced proceedings in the Superior Court of the State of California, more specifically, the Superior Court of the State of California, in and for the County of Contra Costa, to evict the Plaintiff from his residence.

XV

Plaintiff hereby maintains that because neither Saxon nor Quality had the right to sell his residence and as such, that the Superior Court of

1 California does not have jurisdiction to entertain an Unlawful Detainer
2 action against him.
3

4
5 FOURTH CAUSE OF ACTION AGAINST SAXON MORTGAGE AND
6 QUALITY LOAN SERVICES

7
8 COMPLAINT TO QUIET TITLE TO REAL PROPERTY
9

10 XV

11 As a fourth and apart cause of action, Plaintiff realleges the above
12 causes of action and incorporates same as if fully set-out herein.
13

14 XVI
15

16 On or about 3 December 07, both Saxon and Quality did wrongfully
17 foreclosed on the Plaintiff's residence, sold same to a third party, and that
18 third party has now commenced proceedings in the Superior Court of the
19 State of California, more specifically, the Superior Court of the State of
20 California, in and for the County of Contra Costa, to evict the Plaintiff from
21 his residence.
22
23

24
25 ///

26
27 ///

XVII

Plaintiff is and at all times herein mentioned the owner and/or entitled to possession of the property located at **536 MATTERHORN DR WALNUT CREEK, CALIFORNIA 94598**

XVIII

Plaintiff is informed and believes and thereupon alleges that Defendants and each of them claim an interest in the property adverse to plaintiff herein. However, the claim of said Defendants is without any right whatsoever, and said Defendants have no legal or equitable right, claim, or interest in said property.

XIX

Plaintiff therefore seek a declaration that the title to the subject property is vested in plaintiff alone and that the defendants herein, and each of them, be declared to have no estate, right, title or interest in the subject property and that said defendants and each of them, be forever enjoined from asserting any estate, right, title or interest in the subject property.

WHEREFORE, plaintiff prays judgment against defendants SAXON and QUALITY and each of them, as follows:

1 For an order compelling said Defendants and each of them, to transfer legal
2 title and possession of the subject property to Plaintiff herein;
3

4 For a declaration and determination that Plaintiff is the rightful holder of
5 title to the property and that Defendants_ herein, and each of them, be
6 declared to have no estate, right, title or interest in said property;
7

8
9 For a judgment forever enjoining said defendants, and each of them, from
10 claiming any estate, right, title or interest in the subject property;
11

12 For costs of suit herein incurred

13
14 Dated: Feb 11/ 2008

15
16 Respectfully Submitted

Respectfully Submitted

17
18 **NEGER HEKMAT ALAMI**

19 *Negar Hekmat Alami*

20 Plaintiff in Proper
21

SHAHROKH ALAMI

22 *Shahrokh Alami*

23 Plaintiff in Proper
24

25
26
27
28
///

PETITION FOR REMOVAL
JURISDICTION AND VENUE OF ACTIONS

28 U.S.C. 1441(a)

Plaintiff hereby petition the Court for removal of all cases of action currently pending in the Superior Court of California, in and for the County of Contra Costa, more, specifically, the Matter of GUO LAING YANG v. NEGER HEKMAT ALAWI, case # WS 08-0017 to the **United States District Court, Central District Of California, consistent with 28 U.S.C. 1441(a).**

Under 28 U.S.C. § 1441(a), a party in a state court civil action may remove the action to Federal District Court if the Federal District Court has original jurisdiction over the action. In other words, removal is reserved for those cases "that originally could have been filed in Federal District Court.

In the instant case, where diversity of citizenship exists between the parties, the proper venue for this matter is in the Federal District Court.

Furthermore, The Federal District Court has jurisdiction because, For the purpose of any action which may be brought within the United States, its Territories or possessions, or the Commonwealth of Puerto Rico by or against the Bank in accordance with the agreement, the Bank shall be deemed to be an inhabitant of the Federal judicial district in which its principal office in the United States is located, and any such action at law or in equity to which the Bank shall be a party shall be

1 deemed to arise under the laws of the United States, and the district
2 courts of the United States shall have original jurisdiction of any such
3 action. When the Bank is a defendant in any such action, it may, at any
4 time before the trial thereof, remove such action from a State court into
5 the district court of the United States for the proper district by
6 following the procedure for removal of causes otherwise provided by
7 law.
8
9
10

11 In the instant matter, Saxon and Quality are acting as banks, as
12 such, the acts complained of herein against these defendants, is based
13 primarily on there conducts as banks, thus, the Federal District Court is the
14 proper venue for Plaintiff's complaint.
15
16

17 Dated: _____
18

19 Respectfully Submitted
20

21
22 **NEGER HEKMAT ALAMI**

23 *Negar Hekmat Alami*

24 Plaintiff in Proper
25
26
27
28

Respectfully Submitted

SHAHROKH ALAMI

Shahrokh Alami

Plaintiff in Proper

JS 44 (Rev. 12/07) (card rev 1-08)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON PAGE TWO OF THE FORM.)

I. (a) PLAINTIFFS **NEGER IHEKMAT ALAMI, SHAH ROKH ALAMI**

DEFENDANTS **Superior Court of California Contra Costa, Saxon Mortgage, Quality Loan SVCS**

(b) County of Residence of First Listed Plaintiff
(EXCEPT IN U.S. PLAINTIFF CASES)

Contra Costa

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)

**536 Matterhorn Pt
Walnut Creek, Ca 94598
Proper**

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|---------------------------------------|---------------------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input checked="" type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury—Med. Malpractice <input type="checkbox"/> 365 Personal Injury—Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus—Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input checked="" type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities—Employment <input type="checkbox"/> 446 Amer. w/Disabilities—Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing. (Do not cite jurisdictional statutes unless diversity):

28 U.S.C. 1441(a)

Brief description of cause:

wrongful foreclosure, injunctive relief

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 ☐ DEMAND \$

CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

PLEASE REFER TO CIVIL L.R. 3-12 CONCERNING REQUIREMENT TO FILE "NOTICE OF RELATED CASE".

IX. DIVISIONAL ASSIGNMENT (CIVIL L.R. 3-2) (PLACE AND "X" IN ONE BOX ONLY)

☒ SAN FRANCISCO/OAKLAND ☐ SAN JOSE

DATE

2.11.08

SIGNATURE OF ATTORNEY OF RECORD

[Signature]

008-843 VRW